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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,229	07/05/2000	Roy Malcolm Moody	37261.p058	4990

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EXAMINER

STODOLA, DANIEL P

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.
09/610,229

Applicant(s)
Roy Moody

Examiner
Daniel P. Stodola

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3634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 11, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-17 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 10-17 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Drawings

The drawings are objected to because reference numeral “34” in Fig. 2 has no lead line connecting it to the part to which it refers. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no antecedent basis in the specification for the terminology of a “coupling”. For example, note claim 1, line 7. To which disclosed element does the “coupling” terminology refer? Is this referring to the mounting plate 23 or the driver 67? Further, there is no antecedent basis in the specification for the terminology of a “mounting”. Is this terminology supposed to be referring to the mounting plate 23? Appropriate correction to provide the proper antecedent basis for the terminology used in the claims is required.

The specification is objected to because reference numeral “51” is used for “cut-out 51”, “tab 51” and “opening 51”. See page 12, lines 16 and 20, and page 14, line 5. Further, reference numeral “39” is used to refer to “connector means 39”, page 10, lines 3 and 4, “strap 39”, page

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15, lines 12 and 17, page 16, line 23, and “corner drive 39”, page 16, line 7. Appropriate correction is required to provide proper and consistent terminology.

The specification lacks proper punctuation and this lack of punctuation results in the presence of grammatical and idiomatic errors. For example, commas should be inserted after “Accordingly”, page 7, line 14, and “rotated”, page 7, line 15. Further, “eg.”, page 10, line 7, should be --, e.g.,--. Appropriate correction is required to correct all grammatical and idiomatic errors.

Claim Objections

Claim 16 is objected to because of the following informalities: “connect”, line 1, should be --connector--. Further, claim 3, line 3, appears to include an inked in plus sign between “with” and “the” or else the inked in marking is supposed to be a “t”. If the marking was to be a “t”, it still should not be present since the typed “the” already has a “t” present. In claim 10, line 9, “loss” should be --lost--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The specification is objected to for failing to provide an adequate written description of the invention. In particular, it should be noted that the sixth paragraph of Section 112 permits the expression of an element as a “means” for performing some specified function and this means is to be construed as the specifically disclosed element and equivalents thereof. On page 10 of the

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specification applicant discloses a "connector means 39". However, no specific element constituting this "connector means" has been disclosed or described. Further, no function has been attributed to the "connector means". Accordingly, it is not known and cannot be determined what element(s) is(are) encompassed by the "connector means" terminology and what other, different, elements would constitute "equivalents".

Claims 1-8 and 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it is not clear as to what constitutes a "mounting" and a "coupling". Accordingly, the metes and bounds of the claims cannot be properly ascertained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Vetter ('135) as advanced in the previous final rejection of April 5, 2002, Paper No. 6.

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Allowable Subject Matter

Claims 10-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Response to Arguments

Applicant's arguments filed October 11, 2002 have been fully considered but they are not persuasive.

With respect to applicant's remarks that the examiner is misinterpreting Vetter, the examiner respectfully disagrees. In particular, the examiner is merely reading the structure of Vetter on the broadly drafted language of the claims. Further, while the claims are to be interpreted in light of the specification, this does not mean that limitations not otherwise present in the claims will be read therein. Thus, it is not seen how the claims preclude the sill 15 of Vetter from constituting the "mounting" while the side jambs 16,17 (and unshown top piece) constitutes the "window frame" to which the sill is to be mounted per line 3 of claim 1. Further, the language of the claims makes no distinction between direct and indirect mounting of the elements such as the hinge to the frame, etc.

It is additionally noted that while applicant discusses Vetter in detail with respect to the various elements, no discussion is found regarding what elements of the disclosed invention the various claim recitations are supposed to be defining. As has been pointed out above, several terms in the claims do not have proper antecedent basis in the specification and thus it is not

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known exactly what applicant is attempting to set forth. For example, which disclosed element constitutes the “mounting”? Does this refer to a single disclosed element or a plurality of disclosed elements? What does “coupling” refer to? While the “disclosures” of Vetter and applicant are different, it is not seen that the claims have been presented in a manner that includes the differences, especially when it is not clear what is supposed to be applicant’s “mounting” and “coupling”.

Contrary to applicant’s remarks at the bottom of page 4, claim 1 does not state that the hinge is mountable to the window frame “by the mounting”. Rather, claim 1 first sets forth the presence of a hinge at line 6 and then at line 7 states that the hinge is connected to the mounting. The claim does not state that the mounting is what mounts the hinge to the window frame nor does it define that the mounting supplies the only connection of the hinge to the window frame.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Stodola whose telephone number is (703) 308-2686. The examiner can normally be reached on Monday through Friday from 6:00 a.m. to 2:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, , can be reached on (703) . The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

STODOLA
December 30, 2002

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial "D".

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600